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DOCKET NUMBER
PETITION RULE PRM 26-2
(64FR67202)

DOCKETED
US NRC

'00 FEB 23 P3:47

Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801

US
NRC
ADMIN

February 14, 2000

Mr. David L. Meyer, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

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RULES & D.A. BRANCH
US NRC

Dear Mr. Meyers:

**PETITION FOR RULEMAKING; REQUEST FOR COMMENTS ON WORK HOUR
LIMITS (64 FED. REG. 67202; DECEMBER 1, 1999)**

TVA submits the following comments on the September 28, 1999 petition for rulemaking submitted by Barry Quigley. The petition requests that the NRC (1) add work hour limits to 10 CFR Part 26; (2) add a criterion to 10 CFR 55.33(a)(1) to require evaluation of known sleeping disorders; (3) revise the Enforcement Policy to include examples of work hour violations warranting various NRC sanctions; and (4) revise NRC form 396 to include self-disclosure of sleeping disorders by licensed operators. The petition also requests changes to the NRC inspection procedure for the Fitness for Duty (FFD) program. TVA believes the petition for rulemaking should be denied for four primary reasons.

First, TVA believes that the industry has already addressed potential fatigue-related issues through developed used to comply with NRC FFD requirements and Generic Letter (GL) 82-12, "Nuclear Power Plant Staff Working Hours." These programs demonstrate that licensees recognize that appropriate management of its work force, including oversight of personnel hours worked, is a fundamental aspect of safe plant operation.

Second, TVA notes that the petitioner has not provided evidence to support his contention that "fatigue most probably played a role in a respectable percentage" of incidents recorded in the NRC's Human Factors Information System. Instead, TVA contends that the readily available industry performance data demonstrate that no adverse industry performance trends

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can be attributed to "fatigue" problems. Rather, industry performance has improved significantly over the past decade and has done so notwithstanding corporate restructuring affecting nuclear power plant licensees.

Third, TVA believes NRC has ample authority to enforce compliance with 10 CFR Part 26 and licensee technical specifications (where the administrative controls to prevent fatigue-related incidents identified in GL 82-12 typically reside).

Finally, TVA believes that the backfit test required by 10 CFR 50.109 cannot be met for this petition without showing that fatigue is a root cause or even a substantial contributing factor to the limited number of significant events that have occurred over the past decade. On the other hand, TVA is concerned that implementation of the proposed work hour limits would inappropriately limit its flexibility to effectively manage its plants. TVA believes that, in certain circumstances, it could have an unintended adverse safety effect. For example, it could add additional crew turnovers on critical tasks with a corresponding increase in the potential for communication and hand-off errors. Similarly, it could force plant management to put the plant through a shutdown transient rather than exceeding the overtime limits for one or two key maintenance staff. Experience has shown that plant transient conditions are more risk-significant than steady state operation. Further, given the complexity of the proposal and the burdensome nature of its implementation for licensees and enforcement by the agency, TVA believes that the costs associated with compliance of the proposed rules is another reason it will not meet the backfit test.

In summary, TVA believes NRC has adequately addressed potential fatigue issues as part of its broader FFD rules. Further, licensee programs implementing the guidance contained in GL 82-12 ensure that, under normal operations, licensees limit overtime. As is appropriate, licensees are permitted some flexibility for overtime for unusual circumstances and for relatively short periods with greater worker demands. No evidence has been cited that suggests that any further NRC or licensee actions are necessary. Consequently, TVA believes NRC should deny this petition.

TVA also supports the comments provided by the Nuclear Energy Institute on this petition for rulemaking.


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If you have any questions, please contact me at (423) 751-2508.

Sincerely,

A handwritten signature in cursive script, reading "Mark J. Burzynski".

Mark J. Burzynski

Manager

Nuclear Licensing

cc: U.S. Nuclear Regulatory Commission
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